This document set includes versions of a question time brief. The purpose of these documents is to assist the Treasurer and Treasury Ministers to respond to questions that are raised in Parliament. In practice, preparation of question time briefs generally involve Treasury providing background material, facts and figures, which Ministers and their Offices draw on when developing their talking points and accompanying lines of argument. This can often become an iterative process in which drafts are then exchanged with the Treasury also asked to insert additional facts as required and/or check factual material inserted by Ministerial offices. Treasury's role is to provide the Government with advice that is based on the best available evidence, before these products are finalised in the Offices of the Ministers.

FOI 2411
Document 1

TAX – NEGATIVE GEARING/CAPITAL GAINS TAX

TOP LINES:

- The Government is committed to supporting Australians who wish to invest and provide for their future and support their families.
- The housing market in many parts of Australia has been strong in recent years.
- This has led to a large increase in dwelling investment and much of that supply is now coming to market. We should expect this to have a moderating impact on house price growth.
- In its advice, Treasury explicitly says that "the ALP policies could introduce some downward pressure on property prices in the short term." This is not inconsistent with what the Government has been saying.
- In fact Treasury went further and warned that the proposed policy change could be particularly problematic if it coincides with weakness in the housing market.
- The Government is taking an appropriate and proportionate response to addressing pressures in the Australian housing market. In the 2017-18 Budget, the Government announced a comprehensive housing affordability plan designed to improve outcomes across the housing spectrum from Australians struggling to put a roof over their head to those in affordable housing, private renters, first home buyers and downsizers
- The Government is also ensuring that the Australian Prudential Regulation Authority (APRA) is able to respond flexibly to financial and housing market developments that pose a risk to financial stability. This includes giving APRA new powers over the provision of credit by lenders that are outside the traditional banking sector.
- Government action must be responsive to evolving conditions in housing markets and this is why the Government is making it clear that APRA has the ability to use geographically-based restrictions on the provision of credit where APRA considers it appropriate.

COALITION ACTION:

- The Government is improving taxpayer confidence in the tax arrangements for residential investment properties by disallowing deductions for travel expenses from 1 July 2017 and, for properties bought after 9 May 2017, limiting plant and equipment depreciation deductions to only those expenses directly incurred by investors.
  - Legislation giving effect to these measures received Royal Assent on 30 November 2017.
- From 1 January 2018, resident individuals investing in qualifying affordable housing either directly or through managed investment trusts will be able to obtain a capital gains tax (CGT) discount of up to 60 per cent.

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KEY QUOTE:

- "Treasury's advice confirms what we have been saying all along — that if you increase capital gains tax by 50 per cent, if you remove negative gearing, it would have a disastrous impact when combined with weakness in the housing market"

LABOR'S POLICY:

- Labor's negative gearing policy is madness. By allowing losses to only be offset against investment income, it stops mum and dad investors like teachers and police officers from being able to negatively gear, but allows the super wealthy with large investment incomes to be able to negatively gear.

- Investors accessing negative gearing under Labor's policy will now have only the option of going to the new home market and, if you're a first-home buyer, you'll be competing with all of them.

- In the UK, you cannot offset a net rental loss against your wage income. In the absence of negative gearing, London still has a housing affordability problem.

Comment s22 For TO review. Treasury has not fact-checked.

KEY FACTS AND FIGURES:

- 72 per cent of people with rental properties have one property.

- Around 1.3 million Australians have negatively geared rental property.

- Almost two-thirds of those who declared a net rental loss in 2014-15 had a taxable income of $80,000 or less.

- Of the tax filers who had a net rental loss in 2014-15, 72 per cent claimed a net rental loss of $10,000 or less.

- There are three times more negative gearers who are nurses, teachers and defence force personnel than those who are doctors, surgeons and finance professionals – just over 100,000 claimants compared with 32,000.

BACKGROUND INFORMATION:

Negative gearing – how it works

- A property is said to be 'negatively geared' if it is purchased with debt and the return on investment (rental income) is less than the cost of owning the investment (including interest on borrowings and allowable deductions such as rates and maintenance).When this occurs, the investor can apply their net loss against their other income and reduce their taxable income. The practice of negative gearing is based on the general deduction principle that allows taxpayers to deduct, from their assessable income, expenses incurred in generating or producing that income.

- A taxpayer may be willing to negatively gear because they expect the investment property, once sold, will generate a large enough capital gain to offset their prior 'loss'. Negative gearing is not limited to investment properties – taxpayers may also own other assets, such as shares, which can be negatively geared.

Table 1: Taxable income of individuals with negatively geared investment properties (residential and commercial)

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Tax Bracket	Total tax filers ('000s)*	Tax filers with net rental losses ('000s)*	Proportion of tax filers with net rental losses	Value of net rental losses ($ billion)#
Less than $18,200	2,488	156	6.3%	1.3
$18,201 to $37,000	3,121	175	5.6%	1.2
$37,001 to $80,000	4,939	476	9.6%	3.6
$80,001 to $180,000	2,267	380	16.8%	3.6
More than $180,001	399	90	22.6%	1.5
TOTAL	13,214	1,278	9.7%	11.1

Source: 2014-15 Tax Stats.

Note: * Figures rounded to the nearest 1,000 people. # Figures rounded to the nearest $100 million.

Capital Gains Tax – how it works

- Unlike other forms of income (which are generally taxed at their full value), capital gains are taxed concessionally. Only 50 per cent of the net capital gain is subject to income tax for assets held longer than 12 months. Tax is only one of many factors that affect the investment decisions of individuals.

Table 2: Taxable income of individuals (resident and non-resident) who reported a net capital gain in 2014-15

Tax Bracket	Total tax filers ('000s)*	Tax filers with net capital gains ('000s)*	Proportion of tax filers with net capital gains	Value of net capital gains ($ billion) #
Less than $18,200	2,488	88	3.5%	0.5
$18,201 to $37,000	3,121	133	4.3%	0.7
$37,001 to $80,000	4,939	204	4.1%	1.9
$80,001 to $180,000	2,267	178	7.8%	3.6
More than $180,001	399	70	17.5%	10.7
TOTAL	13,214	672	5.1%	17.4

Source: 2014-15 Tax Stats.

Note: * Figures rounded to the nearest 1,000 people. # Figures rounded to the nearest $100 million.

Media commentary on negative gearing

- The Shadow Treasurer's media release of 8 January 2018, concerning the release of documents under FOI relating to negative gearing, states that Treasury advice directly contradicts repeated claims by the Prime Minister and the Treasurer that Labor's reforms to negative gearing and the CGT discount would be a "sledgehammer" to the housing market.
  - In its advice, Treasury explicitly says that "the ALP policies could introduce some downward pressure on property prices in the short term." This is not inconsistent with what the Government has been saying.
  - Treasury went further and warned that the proposed policy change could be particularly problematic if it coincides with weakness in the housing market.
- Some media articles have reported incorrectly as Treasury analysis, distributional modelling undertaken by Mr Ben Phillips of the Australian National University on Labor's negative gearing policies. References to Mr Phillips' modelling were contained in documents released under FOI relating to Treasury work on negative gearing.

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Impacts of abolishing negative gearing

- Abolishing or limiting negative gearing would affect up to 1.3 million Australians who have negatively geared rental property.
  - Almost two-thirds of these individuals had a taxable income of $80,000 or less in 2014-15.
- The Government has previously stated that Labor's negative gearing policy would be a "sledgehammer" to the housing market.
  - Treasury's view is that Labor's policy could introduce some downward pressure on property prices in the short term and that this could be particularly problematic if it coincides with weakness in the housing market.
  - Further, the large increase in dwelling investment that has spurred growth in property prices in recent years is now coming to market. We should expect this to have a moderating impact on house price growth.
- Some argue that negative gearing benefits mostly high income earners, and should be abolished to help improve income inequality.
  - The Government is addressing inequality with policies to boost economic growth that will generate greater employment and income for Australians, while targeting assistance to those who need it most.
    - Income inequality, as measured by the Gini coefficient, has experienced a slight improvement since the GFC driven in part by lower income households catching up to the median.
  - As part of the 2017-18 Budget, the Government announced a comprehensive housing affordability plan designed to improve outcomes across the housing spectrum, from Australians struggling to put a roof over their head to those in affordable housing, private renters and first home buyers.
  - The Government is creating the right incentives to improve housing outcomes by helping first home buyers save a deposit through voluntary contributions into superannuation, including through salary sacrificing, reducing barriers to downsizing to free up larger homes, strengthening the capital gains tax rules so that foreign investors pay their fair share of capital gains tax, clamping down on negative gearing excesses and reforming foreign investment rules to discourage investors from leaving their property vacant.

RBA research workshop: University of Melbourne study on negative gearing

- Researchers from the University of Melbourne recently presented economic modelling on the welfare impacts of removing negative gearing at an RBA research workshop.
- One of the major problems with this research is that in the model's initial conditions it assumes investors expected capital gains from their housing investments are zero. Yet around two-thirds of investors in the model are prepared to accept negative income flows from their investments (i.e. they are negatively geared). This assumption does not accord with reality, nor the most basic logic as to investor motivations, which undermines any results from the exercise.
- One of the Authors, Dr Lawrence Uren, noted that the results were preliminary and incomplete.

Key statistics on the housing market

[The latest data on median dwelling house prices will be provided when released on 5 February 2018.]

Release of FOI documents: ALP policy on negative gearing and capital gains tax

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- On 5 January 2018, Treasury released documents under FOI relating to negative gearing tax deductions and CGT policies.
  - This followed the appeal decision by the Australian Information Commissioner (AIC) that providing access to this information would not, on balance, be contrary to the public interest.
- Mr Dan Conifer of the ABC News appealed to the AIC on 25 July 2016, in relation to the FOI decision by Treasury on 17 June 2016 to deny him access to documents sought on negative gearing and CGT. This included a request for access to documents prepared by Treasury on the Australian Labor Party's proposed policies in these areas.
  - Apart from a small amount of material in a Question Time Brief regarding a report by Mr Ben Philips, all other material in scope of the FOI request was exempted at the time under three FOI law provisions: Cabinet, business affairs and deliberative.
- In its decision dated 8 December 2017, the AIC held that in relation to the applicant's FOI request: "the material that the Department found to be exempt under s 47C of the FOI Act (deliberative) is conditionally exempt.
  - However, giving the applicant access to this material at this time would not, on balance, be contrary to the public interest. Accordingly, this material is not exempt."

APRA Measures

- On 31 March 2017, APRA announced further supervisory measures to reinforce sound residential mortgage lending practises, with all Authorised Deposit-Taking Institutions (ADIs) expected to:
  - Limit the flow of new interest-only lending to 30 per cent of total new residential mortgage lending. This includes placing strict internal limits on the volume of interest-only lending at loan-to-value ratios (LVR) above 80 per cent and ensuring strong scrutiny and justifications of any instances of interest-only lending at an LVR above 90 per cent.
  - Manage lending to investors in such a way as to comfortably remain below the benchmark of 10 per cent annual growth previously advised in December 2014.
  - Review and ensure the serviceability assessments, including interest rate and net income buffers are set at appropriate levels for current conditions.
- In addition, APRA also advised ADIs of its expectation of the growth rate and lending standards in the warehouse facilities provided by ADIs to other lenders. APRA would be concerned if these facilities grow faster than the ADI's own housing loan portfolio, and if the lending standards are below the industry-wide sound practices.
- APRA will continue to monitor residential mortgage lending market, and adjust existing measures or implement new ones as warranted.

Housing Affordability

- For further information, see QB18-000030 – Housing Measures – Foreign Investment, Tax and Superannuation.

Labor's plan for housing affordability

- The Opposition Leader, Bill Shorten MP, reaffirmed Labor's commitment to their housing affordability plan, including their proposed changes to negative gearing arrangements.

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Document 2

TAX – NEGATIVE GEARING/CAPITAL GAINS TAX

TOP LINES:

- The Government is committed to supporting Australians who wish to invest in real estate and provide for their future and support their families.
- The Government is also ensuring that there is integrity in the housing system, and taking action to take the heat out of the housing market. The Government has supported APRA responding flexibly to financial and housing market developments that pose a risk to financial stability. We have seen them impose a temporary 10 per cent speed limit on investor loans, and limit interest only loans to less than 30 per cent of their loan book.
  - In response to a reduction in higher risk lending and improvements in lending standards, APRA recently announced plans to replace the 10 per cent investor loan speed limit with more permanent measures to strengthen lending standards from 1 July 2018.
- The Government has also given APRA new powers over the provision of credit by non-bank lenders, as well as clarified that APRA can take measures based on geographic region where appropriate.
- This response – a scalpel rather than a sword – means we can target the overheated areas of our property market without bringing the whole thing down which would be catastrophic for owner occupiers.
- After one of Australia's largest booms in housing construction and several years of very strong growth in prices, national dwelling prices have moderated in recent months and are now growing below their 5-year average annual growth rate.
- The Government's calibrated approach is achieving results. As a recent report released by the Housing Industry Association states: "We cannot tax our way out of the housing affordability problem".

Labor policy and Treasury's advice

- In the Treasury advice received under FOI, Treasury explicitly says that "the ALP policies could introduce some downward pressure on property prices."
- Labor seems to be trying to have it both ways – on the one hand they are saying this advice shows that their policy wont impact prices in any meaningful way, and yet they're saying the policy is about housing affordability.
  - What this shows is that this policy to Labor is not about housing affordability, but is nothing more than a revenue grab! This is part of the $164 billion in extra taxes Labor wants to put on Australians.
- When it comes to housing affordability, the Government is taking an appropriate and proportionate response to addressing pressures in the Australian housing market. The Government is implementing its comprehensive housing affordability plan, announced in

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the 2017-18 Budget and designed to improve outcomes across the housing spectrum — from Australians struggling to put a roof over their head to those in affordable housing, private renters, first home buyers and downsizers.

- Unfortunately the Treasury advice that Labor seems to be so proud of does show exactly what the Government has been saying – it says that housing prices would fall. In fact Treasury went further and warned that the proposed policy change could be particularly problematic if it coincides with weakness in the housing market – which is what is occurring now, with house price growth now declining in monthly terms.
- Government action must be responsive to evolving conditions in housing markets and this is why the Government is making it clear that APRA has the ability to use geographically-based restrictions on the provision of credit where APRA considers it appropriate.

Comment s22: This context was not Treasury drafted or checked, although minor amendments have been made to reflect implementation of Budget measures.

KEY FACTS AND FIGURES:

Key statistics on the housing market

	Sydney	Melbourne	Brisbane	Adelaide	Perth	Hobart	Darwin	Canberra (ACT)	National
Median Dwelling Price as at April 2013	$570,000	$475,000	$422,000	$375,000	$484,000	$325,000	$475,000	$480,000	$434,000
Median Dwelling Price as at April 2018	$828,200	$678,750	$490,000	$435,000	$472,500	$429,000	$465,000	$587,000	$535,000
Price growth over the past 5 years (%)	45.3	42.9	16.1	16.0	-2.4	32.0	-2.1	22.3	23.3
Average annual growth rate over the past 5 years (%)	7.8	7.4	3.0	3.0	-0.5	5.7	-0.4	4.1	4.3
Month-on-Month to Apr-18 (%)	4.0	2.8	2.1	-1.1	0.3	2.1	1.1	1.2	3.9
Through-the-Year to Apr-18 (%)	-3.2	7.7	2.3	2.4	-2.6	15.9	-3.1	4.8	1.9

Source: CoreLogic

- In 2015-16, around 71 per cent of people with rental properties had one property.
- In 2015-16, around 1.3 million Australians had negatively geared rental property.
- Almost two-thirds of those who declared a net rental loss in 2015-16 had a taxable income of $80,000 or less.
- Of the tax filers who had a net rental loss in 2015-16, around 72 per cent claimed a net rental loss of less than $10,000.

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- There were about three times as many negatively gearing nurses, teachers and military personnel in 2015-16 than doctors, surgeons and finance professionals – approximately 100,000 claimants compared with 33,000.

LABOR'S POLICY:

- The Member for McMahon claims that taxing investments more will fix housing affordability. If that is the case, show us the modelling. The Labor Party won't model the impact of abolishing negative gearing because it will reveal their real reason for doing it – a massive revenue raising measure.
  - And let's not forget their planned cut to the CGT discount, which is a tax on all Australians.
  - This is all part of their $164 billion tax hit on Australians and their families. Labor has one answer for everything – to raise taxes.
- Labor's negative gearing policy is madness. By allowing losses to only be offset against investment income, it stops mum and dad investors like teachers and police officers from being able to negatively gear, but allows the super wealthy with large investment incomes to be able to negatively gear.
- Investors accessing negative gearing under Labor's policy will now have only the option of going to the new home market and, if you're a first-home buyer, you'll be competing with all of them.
- In the UK, you cannot offset a net rental loss against your wage income. In the absence of negative gearing, London still has a housing affordability problem.

Comment s22: This content was not Treasury drafted or checked.

MEDIA COMMENTARY ON NEGATIVE GEARING

FOI release on Labor's policy

- The Shadow Treasurer has issued a number of media releases, most recently on 27 April 2018, concerning documents released under FOI earlier this year and asserting that statements made by the Treasurer contradict Treasury advice.
  - In its advice, Treasury explicitly says that "the ALP policies could introduce some downward pressure on property prices in the short term." This is not inconsistent with what the Government has been saying.
  - Treasury went further and warned that the proposed policy change could be particularly problematic if it coincides with weakness in the housing market.
- Some media articles have reported incorrectly as Treasury analysis, distributional modelling undertaken by Mr Ben Phillips of the Australian National University on Labor's negative gearing policies. References to Mr Phillips' modelling were contained in documents released under FOI relating to Treasury work on negative gearing.

Impacts of abolishing negative gearing

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- Abolishing or limiting negative gearing would directly affect up to 1.3 million Australians who have negatively geared rental property.
  - Almost two-thirds of these individuals had a taxable income of $80,000 or less in 2015-16.
- The Government has previously stated that Labor's negative gearing policy would be a "sledgehammer" to the housing market.
  - Treasury's view is that Labor's policy could introduce some downward pressure on property prices in the short term and that this could be particularly problematic if it coincides with weakness in the housing market.
  - After one of Australia's largest booms in housing construction and several years of very strong growth in prices, national dwelling prices have moderated in recent months and are now growing below their 5-year average annual growth rate.
- Some argue that negative gearing benefits mostly high income earners, and should be abolished to help improve income inequality.
  - The Government is addressing inequality with policies to boost economic growth that will generate greater employment and income for Australians, while targeting assistance to those who need it most.
    - Income inequality, as measured by the Gini coefficient, has experienced a slight improvement since the GFC driven in part by lower income households catching up to the median.
  - As part of the 2017-18 Budget, the Government announced a comprehensive housing affordability plan designed to improve outcomes across the housing spectrum, from Australians struggling to put a roof over their head to those in affordable housing, private renters and first home buyers.
  - The Government is creating the right incentives to improve housing outcomes. It has passed legislation that allows first home buyers save a deposit through voluntary contributions into superannuation, including through salary sacrificing, reduced barriers to downsizing to free up larger homes, strengthened the capital gains tax rules so that foreign investors pay their fair share of capital gains tax, clamped down on negative gearing excesses, and reformed foreign investment rules to discourage investors from leaving their property vacant.

Housing Industry Association/Centre for International Economics report

- In a 16 April 2018 media release, the Housing Industry Association (HIA) states it commissioned the Centre for International Economics (CIE) to investigate the economic implications of changes to the rate of capital gains tax (CGT) on the economy.
- The release stated: "According to research released today, an increase in Capital Gains Tax would result in a $1bn reduction in revenue to state Governments, increase the cost of renting and exacerbate the housing affordability challenge".
  - The HIA media release also claimed "the analysis shows that increasing CGT would generate a revenue gain for the Federal Government of $0.5 billion a year which would be dwarfed by stamp duty tax losses to the states in excess of $1 billion per year".
  - The HIA concludes "We cannot tax our way out of the housing affordability problem".

AHURI Inquiry into pathways to housing tax reform: Final report

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- AHURI published its report 'The income tax treatment of housing assets: an assessment of proposed reform arrangements' on 7 March 2018.
- The report found that negative gearing and CGT discount benefits are currently heavily skewed towards those who are more affluent, potentially exacerbating income and wealth inequality among the Australian population.
- The report models transitional arrangements that may ease distributional pressures arising from reforms to negative gearing and CGT. These include:
  - a progressive rental deduction reform whereby 'mum and dad' investors receive access to more generous tax concessions than 'sophisticated' investors on higher income and wealth levels; and
  - a gradual reduction in the CGT discount to 'soften' the impact of CGT reform.
- The report observed that while progressive rental deduction reform would ease the impact of reforms for 'mum and dad' investors, this would likely be administratively more complex to implement than an alternative option to cap rental deductions.

Grattan Institute Report – Housing Affordability: re-imagining the Australian dream

- The Grattan Institute's March 2018 report on housing affordability recommends that the Government:
  - reduce the CGT discount to 25 per cent, phased in over 5 years; and
  - limit negative gearing so that investment losses can only be offset against other investment income.

RBA research workshop: University of Melbourne study on negative gearing

- Researchers from the University of Melbourne presented economic modelling on the welfare impacts of removing negative gearing at an RBA research workshop in late 2017.
- One of the criticisms of this research is that in the model's initial conditions it assumes investors expected capital gains from their housing investments are zero. Yet around two-thirds of investors in the model are prepared to accept negative income flows from their investments (i.e. they are negatively geared). It is argued this assumption does not accord with reality, or basic logic as to investor motivations, which undermines any results from the exercise.
- The model also assumes the reintroduction of death taxes.
- One of the Authors, Dr Lawrence Uren, noted that the results were preliminary and incomplete.

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BACKGROUND INFORMATION:

COALITION ACTION:

- The Government is improving taxpayer confidence in the tax arrangements for residential investment properties by disallowing deductions for travel expenses from 1 July 2017 and, for properties bought after 9 May 2017, limiting plant and equipment depreciation deductions to only those expenses directly incurred by investors.
  - Legislation giving effect to these measures received Royal Assent on 30 November 2017.
- From 1 January 2018, resident individuals investing in qualifying affordable housing either directly or through managed investment trusts will be able to obtain a capital gains tax (CGT) discount of up to 60 per cent.
  - This measure is scheduled for debate in the 2018 Winter sittings of Parliament.

KEY QUOTE:

- "Treasury's advice confirms what we have been saying all along — that if you increase capital gains tax by 50 per cent, if you remove negative gearing, it would have a disastrous impact when combined with weakness in the housing market"

Negative gearing – how it works

- A property is said to be 'negatively geared' if it is purchased with debt and the return on investment (rental income) is less than the cost of owning the investment (including interest on borrowings and allowable deductions such as rates and maintenance). When this occurs, the investor can apply their net loss against their other income and reduce their taxable income. The practice of negative gearing is based on the general deduction principle that allows taxpayers to deduct, from their assessable income, expenses incurred in generating or producing that income.
- A taxpayer may be willing to negatively gear because they expect the investment property, once sold, will generate a large enough capital gain to offset their prior 'loss'. Negative gearing is not limited to investment properties – taxpayers may also own other assets, such as shares, which can be negatively geared.

Table 1: Taxable income of individuals with negatively geared investment properties (residential and commercial) in 2015-16

Tax Bracket	Total tax filers ('000s)*	Tax filers with net rental losses ('000s)*	Proportion of tax filers with net rental losses	Aggregate net rental losses ($ billion)#
Up to $18,200	2,562	159	6.2%	1.3
$18,201 to $37,000	3,112	170	5.5%	1.2
$37,001 to $80,000	4,999	467	9.3%	3.6
$80,001 to $180,000	2,419	401	16.6%	3.7
More than $180,000	417	94	22.5%	1.5
TOTAL	13,508	1,291	9.6%	11.3

Source: 2015-16 Tax Stats.

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Note: * Figures rounded to the nearest 1,000 people. # Figures rounded to the nearest $100 million.

Capital gains tax – how it works

- Unlike other forms of income (which are generally taxed at their full value), capital gains are taxed concessionally. Only 50 per cent of the net capital gain is subject to income tax for assets held longer than 12 months. Tax is only one of many factors that affect the investment decisions of individuals.

Table 2: Taxable income of individuals (resident and non-resident) who reported a net capital gain in 2015-16

Tax Bracket	Total tax filers ('000s)*	Tax filers with net capital gains ('000s)*	Proportion of tax filers with net capital gains	Aggregate net capital gains ($ billion) #
Up to $18,200	2,562	90	3.5%	0.4
$18,201 to $37,000	3,112	130	4.2%	0.7
$37,001 to $80,000	4,999	194	3.9%	1.8
$80,001 to $180,000	2,419	177	7.3%	3.6
More than $180,000	417	71	17.0%	11.6
TOTAL	13,508	662	4.9%	18.1

Source: 2015-16 Tax Stats, Table 10A.

Note: * Figures rounded to the nearest 1,000 people. # Figures rounded to the nearest $100 million.

Release of FOI documents: ALP policy on negative gearing and capital gains tax

- On 5 January 2018, Treasury released documents under FOI relating to negative gearing tax deductions and CGT policies.
  - This followed the appeal decision by the Australian Information Commissioner (AIC) that providing access to this information would not, on balance, be contrary to the public interest.
- Mr Dan Conifer of the ABC News appealed to the AIC on 25 July 2016, in relation to the FOI decision by Treasury on 17 June 2016 to deny him access to documents sought on negative gearing and CGT. This included a request for access to documents prepared by Treasury on the Australian Labor Party's proposed policies in these areas.
  - Apart from a small amount of material in a Question Time Brief regarding a report by Mr Ben Philips, all other material in scope of the FOI request was exempted at the time under three FOI law provisions: Cabinet, business affairs and deliberative.
- In its decision dated 8 December 2017, the AIC held that in relation to the applicant's FOI request: "the material that the Department found to be exempt under s 47C of the FOI Act (deliberative) is conditionally exempt. However, giving the applicant access to this material at this time would not, on balance, be contrary to the public interest. Accordingly, this material is not exempt."

APRA Measures

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  - Limit the flow of new interest-only lending to 30 per cent of total new residential mortgage lending. This includes placing strict internal limits on the volume of interest-only lending at loan-to-value ratios (LVR) above 80 per cent and ensuring strong scrutiny and justifications of any instances of interest-only lending at an LVR above 90 per cent.

- Manage lending to investors in such a way as to comfortably remain below the benchmark of 10 per cent annual growth previously advised in December 2014.
- Review and ensure the serviceability assessments, including interest rate and net income buffers are set at appropriate levels for current conditions.

- On 26 April 2018, APRA announced plans to replace the temporary limit on investor loan growth of 10 per cent with more permanent measures to strengthen lending standards from 1 July 2018, in response to a reduction in higher risk lending and improvements in lending policies. The limit will be removed where the board of an ADI is able to provide assurance on the strength of their lending standards.
- APRA will continue to monitor residential mortgage lending market, and adjust existing measures or implement new ones as warranted.

Housing Affordability

- For further information, see QB18-000030 – Housing Measures – Foreign Investment, Tax and Superannuation.

QTB Number:	QB18-000106	QTB Category:	Taxation
Contact Officer:	Bede Fraser	Date and time:	3/05/2018 7:45 PM~~3/05/2018 5:39 PM3/05/2018 5:21 PM~~
Contact Number:	(02) 6263 3555	Next update:	
Office Responsible	TSR	Office Adviser Initial and Date Cleared	s22 1 / 2 / 2018

TAX – NEGATIVE GEARING FOR RESIDENTIAL HOUSING

FOI 2411
Document 3

TOP LINES:

- Those who negatively gear are not rich. There were about three times as many negatively gearing nurses, teachers and military personnel in 2015-16 than doctors, surgeons and finance professionals – approximately 100,000 claimants compared with 33,000.
- The Government is committed to supporting Australians who wish to invest in real estate and provide for their future and support their families.
- The Government is also ensuring that there is integrity in the housing system, and taking action to target overheated areas, without bringing the whole housing market down which would be catastrophic for owner occupiers.

COALITION ACTION:

- The Government supports APRA responding flexibly to financial and housing market developments that pose a risk to financial stability. We have seen them impose a temporary 10 per cent 'speed limit' on annual growth in investor loans, and limit interest-only loans to less than 30 per cent of new residential mortgages.
  - APRA announced plans to replace the temporary limit on investor loan growth of 10 per cent with more permanent measures to strengthen lending standards from 1 July 2018, in response to a reduction in higher risk lending and improvements in lending policies. The limit will be removed where the board of an ADI is able to provide assurance on the strength of their lending standards.
- The Government has also given APRA new powers over the provision of credit by non bank lenders, as well as clarified that APRA can take measures based on geographic region where appropriate.
- The Government is improving taxpayer confidence in the tax arrangements for residential investment properties by disallowing deductions for travel expenses from 1 July 2017 and, for properties bought after 9 May 2017, limiting plant and equipment depreciation deductions to only those expenses directly incurred by investors.
- From 1 January 2018, resident individuals investing in qualifying affordable housing either directly or through managed investment trusts will be able to obtain a capital gains tax (CGT) discount of up to 60 per cent.
  - This measure is expected to be debated in the Spring 2018 sittings.

KEY FACTS AND FIGURES:

- National dwelling prices have moderated following several years of very strong growth.
  - Over the last five years, median house prices have grown on average by around 6 per cent per year in Sydney and Melbourne, compared with the national average of 3.5 per cent. This growth has moderated with national median house prices falling by 0.9 per cent through the year to August 2018.

QTB Number:	QB18-000106	QTB Category:	Taxation
Contact Officer:	Bede Fraser	Date and time:	7/09/2018 3:21 PM
Contact Number:	(02) 6263 3555	Next update:	
Office Responsible	TSR	Office Adviser Initial and Date Cleared	s22 13/08/2018

- In 2015-16, around 71 per cent of people with rental properties had one property.
- In 2015-16, around 1.3 million Australians had negatively geared rental property.
- Almost two-thirds of those who declared a net rental loss in 2015-16 had a taxable income of $80,000 or less.
- Of the tax filers who had a net rental loss in 2015-16, around 72 per cent claimed a net rental loss of less than $10,000.

BACKGROUND:

Negative gearing – how it works

- A property is said to be 'negatively geared' if it is purchased with debt and the rental income is less than the cost of owning the investment (including interest on borrowings and allowable deductions such as rates and maintenance). When this occurs, the investor can apply their net loss against their other income and reduce their taxable income. The practice of negative gearing is based on the general deduction principle that allows taxpayers to deduct, from their assessable income, expenses incurred in generating or producing that income.
- A taxpayer may be willing to negatively gear because they expect the investment property, once sold, will generate a large enough capital gain to offset their prior 'loss'. Negative gearing is not limited to investment properties – taxpayers may also own other assets, such as shares, which can be negatively geared.

Capital gains tax – how it works

- Unlike other forms of income (which are generally taxed at their full value), capital gains are taxed concessionally. Only 50 per cent of the net capital gain is subject to income tax for assets held longer than 12 months. This concessional treatment applies not only to housing, but also to other capital assets held for more than 12 months, such as shares.

APRA Measures

- On 31 March 2017, APRA announced further supervisory measures to reinforce sound residential mortgage lending practises, with all Authorised Deposit-Taking Institutions (ADIs) expected to:
  - Limit the flow of new interest-only lending to 30 per cent of total new residential mortgage lending. This includes placing strict internal limits on the volume of interest-only lending at loan-to-value ratios (LVR) above 80 per cent and ensuring strong scrutiny and justifications of any instances of interest-only lending at an LVR above 90 per cent.
  - Manage lending to investors in such a way as to comfortably remain below the benchmark of 10 per cent annual growth previously advised in December 2014.
  - Review and ensure the serviceability assessments, including interest rate and net income buffers are set at appropriate levels for current conditions.
- On 26 April 2018, APRA announced plans to replace the temporary limit on investor loan growth of 10 per cent with more permanent measures to strengthen lending standards from 1 July 2018, in response to a reduction in higher risk lending and improvements in lending policies. The limit will be removed where the board of an ADI can provide assurance on the strength of their lending standards.
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TAX – NEGATIVE GEARING FOR RESIDENTIAL HOUSING

FOI 2411
Document 4

TOP LINES:

- Those who negatively gear are not rich. There were about three times as many negatively gearing nurses, teachers and military personnel in 2015-16 than doctors, surgeons and finance professionals – approximately 100,000 claimants compared with 33,000.
- The Government is committed to supporting Australians who wish to invest in real estate and provide for their future and support their families.
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COALITION ACTION:

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- From 1 January 2018, resident individuals investing in qualifying affordable housing either directly or through managed investment trusts will be able to obtain a capital gains tax (CGT) discount of up to 60 per cent.
  - This measure is expected to be debated in the Spring 2018 sittings.

KEY FACTS AND FIGURES:

- National dwelling prices have moderated following several years of very strong growth.
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QTB Number:	QB18-000106	QTB Category:	Taxation
Contact Officer:	Bede Fraser	Date and time:	17/09/2018 12:08 PM
Contact Number:	(02) 6263 3555	Next update:	
Office Responsible	TSR	Office Adviser Initial and Date Cleared	s22 13/08/2018

- In 2015-16, around 71 per cent of people with rental properties had one property.
- In 2015-16, around 1.3 million Australians had negatively geared rental property.
- Almost two-thirds of those who declared a net rental loss in 2015-16 had a taxable income of $80,000 or less.
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Citigroup Research 'Australian Political Uncertainty' – September 2018

- Citigroup released its analysis of the political factors which may impact the Australian economy and the financial market. It assessed the potential outcome of the implementation of changes to the current settings on negative gearing and capital gains tax, among other policies. From the report:
  - 'Changes to negative gearing are likely under Labor, and may weigh on both turnover and price.' pg.1.
  - 'We do expect an impact on volumes transacted in the property market and price declines of 5 per cent could be possible. This is in addition to an already weak property market.' pg. 17.
  - 'A move by the ALP to limit negative gearing and halve the CGT discount runs the risk of accentuating the cyclical weakness in house prices.' pg.17.

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TAX – NEGATIVE GEARING FOR RESIDENTIAL HOUSING

TOP LINES:

- Those who negatively gear are not rich. There were about three times as many negatively gearing nurses, teachers and military personnel in 2015-16 than doctors, surgeons and finance professionals – approximately 100,000 claimants compared with 33,000.
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  - This measure is expected to be debated in the Spring 2018 sittings.

KEY FACTS AND FIGURES:

- Capital city dwelling prices have fallen for 12 consecutive months to September 2018, led by price declines in Sydney (down 6.2 per cent from their peak in July 2017) and Melbourne (down 4.4 per cent from their peak in November 2017).
  - Nationally, capital city housing prices are 3.7 per cent lower than their recent peak in September 2017, though this follows rapid trough to peak growth of 12.6 per cent between early 2016 to late 2017.

QTB Number:	QB18-000106	QTB Category:	Taxation
Contact Officer:	Bede Fraser	Date and time:	25/10/2018 1:55 PM
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Office Responsible	TSR	Office Adviser Initial and Date Cleared	s22 13/08/2018

- The recent moderation in dwelling prices is unsurprising following substantial price growth between late 2012 and 2017, but a combination of income growth and steady population growth are expected to support underlying demand.

- In 2015-16, around 71 per cent of people with rental properties had one property.
- In 2015-16, around 1.3 million Australians had negatively geared rental property.
- Almost two-thirds of those who declared a net rental loss in 2015-16 had a taxable income of $80,000 or less.
- Of the tax filers who had a net rental loss in 2015-16, around 72 per cent claimed a net rental loss of less than $10,000.

KEY QUOTES:

- Master Builders Association media release (October 2018):
  - 'Independent modelling by Cadence Economics shows that Labor's policy would mean up to 42,000 fewer new homes would be built over the five years following the implementation of Labor's policies, resulting in a reduction in the value of residential building activity of between $2.8 billion and $11.8 billion.'
  - 'Home renovations would also be hit by an expected reduction of between $50 million to $210 million in activity over a five year period. Inevitably this would mean a fall in employment which is expected to be between 7,200 and 32,000 less jobs across the country.'
- Citigroup (September 2018):
  - 'Changes to negative gearing are likely under Labor, and may weigh on both turnover and price.'
  - 'We do expect an impact on volumes transacted in the property market and price declines of 5 per cent could be possible. This is in addition to an already weak property market.'
  - 'The greater risk at present is probably to accentuate the cyclical weakness in house prices by further limiting housing demand, with spillovers to consumer spending.'
- Standard & Poor's (September 2018):
  - 'While our base case is for a soft landing, our ratings could come under pressure if house prices fall sharply and increase risks to fiscal accounts, real economic growth, and financial stability.'
- RiskWise Property Research and WargentAdvisory Report (June 2018):
  - 'The last thing they need is a further dampening of demand. An introduction of Labor's proposed changes to negative gearing needs a more nuanced response with some mitigating processes and policies that could be implemented so there are no unintended consequences.'
- Treasury FOI (publically released January 2018, following Office of the Australian Information Commissioner review):
  - 'The ALP policies could introduce some downward pressure on property prices in the <u>short term</u>, particularly if the commencement of the policy coincides with a weaker housing market.'

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